

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
The New Jersey Board of Public	)	
Utilities Petition for Delegated	)	CC Docket No. 95-116
Authority to Implement Wireless	)	
Local Number Portability	)	

**COMMENTS OF THE  
CELLULAR TELECOMMUNICATIONS & INTERNET ASSOCIATION**

The Cellular Telecommunications & Internet Association (“CTIA”)<sup>1</sup> hereby submits its comments in opposition to the New Jersey Board of Public Utilities (“NJBPU”) Petition for Delegated Authority to Implement Wireless Local Number Portability (“NJBPU Petition”) immediately in four New Jersey counties located outside the top 100 metropolitan statistical areas (“MSAs”).<sup>2</sup> The NJBPU Petition provides no compelling reason that would justify the implementation of local number portability (“LNP”) in the four New Jersey counties prior to the May 24, 2004 deadline<sup>3</sup> established by the Commission.

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<sup>1</sup> CTIA is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the association covers all Commercial Mobile Radio Service (“CMRS”) providers and manufacturers, including cellular, broadband PCS, ESMR, as well as providers and manufacturers of wireless data services and products.

<sup>2</sup> See New Jersey Board of Public Utilities Petition for Delegated Authority to Implement Wireless Local Number Portability (filed Jan. 16, 2004); *see also* Comment Sought on New Jersey Board of Public Utilities Petition for Delegated Authority to Implement Wireless Number Portability, CC Docket No. 95-116, DA 04-269 (rel. Feb. 3, 2004) (hereinafter “Public Notice”) (setting February 24, 2004, comment date).

<sup>3</sup> See *Telephone Number Portability, CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues, Memorandum Opinion and Order and*

Furthermore, the NJBPU Petition does not address the problems wireline and wireless carriers, and their customers, would encounter with “patchwork” LNP implementation that deviates from the national schedule. Accordingly, the Commission should reaffirm the May 24, 2004 implementation deadline and reject the NJBPU Petition.

## **DISCUSSION**

### **A. The NJBPU Petition Is Not Timely**

In the January 15, 2004, Petition, the NJBPU requests “that it be delegated the authority to require the CMRS providers to port in the four above-mentioned counties *immediately* upon approval of this Petition.”<sup>4</sup> In requesting this authority, however, the NJBPU Petition ignores the fact that the current deadline for implementing the relief requested in this Petition is May 24, 2004, which is only three months from now.

Under the comment schedule contained in the Commission’s Notice, comments on the NJBPU Petition are due on February 24, 2004, with reply comments due on March 9, 2004.<sup>5</sup> Even if the Commission were to subsequently grant the relief requested in the NJBPU Petition, having waived the federal LNP implementation rules, the NJBPU would then have to issue its own guidance to

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*Further Notice of Proposed Rulemaking*, CC Docket No. 95-116, FCC 03-284, at ¶ 29 (rel. Nov. 10, 2003) (hereinafter “Intermodal Order”).

<sup>4</sup> NJBPU Petition at 2.

<sup>5</sup> See Public Notice at 1.

both wireless and wireline carriers on implementation issues.<sup>6</sup> In light of the fact that the national deadline is only three months away, it makes no sense for the Commission to grant a limited, fragmented waiver. Indeed, the Commission has found that its (federal) interest in number portability “is bolstered by the potential deployment of different number portability solutions across the country, which would significantly impact the provision of interstate telecommunications services.”<sup>7</sup> The Commission should take this opportunity to reaffirm its commitment to the uniform national deployment of wireless and intermodal LNP on May 24, 2004, and dismiss the NJBPU Petition based on the forthcoming national wireless LNP deadline that will provide the exact relief requested in the NJBPU Petition.

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<sup>6</sup> It should be noted that the NJBPU lacks jurisdiction to impose LNP on CMRS carriers. As the Commission consistently has stated, its authority to impose LNP on CMRS carriers flows from Sections 2 and 332(c)(1) of the Act -- the very sections that preempt state regulation of CMRS carriers. *See Intermodal Order*, at ¶ 8 (“Although the Act excludes CMRS providers from the definition of local exchange carrier, and therefore from the section 251(b) obligation to provide number portability, the Commission has extended number portability requirements to CMRS providers. In the Local Number Portability *First Report and Order*, the Commission indicated that it had independent authority under sections 1, 2, 4(i), and 332 of the Communications Act of 1934, as amended, to require CMRS carriers to provide number portability.”)

<sup>7</sup> *Id.* (citing *Telephone Number Portability, First Report and Order and Further Notice of Proposed Rulemaking*, 11 FCC Rcd 8352, 8432 (1996) (hereinafter “First Report and Order”).

**B. Even if a Waiver Were Granted, Full LNP Capabilities Could Not Be Deployed Prior to May 24, 2004**

In the Petition, the NJBPU claims “there are no evident impediments to making LNP immediately available to these four counties.”<sup>8</sup> This statement, however, ignores the fact that both wireless-to-wireless and wireline-to-wireless (“intermodal”) ports currently are supported only in the top 100 MSAs, and carriers require sufficient notice to update the industry databases and routing tables used to support LNP. As the wireless industry has learned from its experience implementing LNP in the top 100 MSAs, MSAs are defined by county geo-political boundaries, just like the boundaries that define the four New Jersey counties that are the subject of the NJBPU Petition. As well charted as county lines may be, the telephone industry uses wireline “rate centers” to define the boundaries of their service territories, while wireless carriers use a combination of cellular MSAs and RSAs and Rand McNally MTAs and BTAs to define their markets. Each of these boundaries must be mapped and cross-referenced to permit porting, and rate centers, in particular, do not respect county boundaries. Before carriers (or regulators) can inform consumers about their ability to port their number, the carriers must first coordinate and agree on whether a specific rate center that straddles a county line falls within or outside of the carriers’ obligation to support LNP.

While wireless carriers generally have been able to reach consensus on these rate center issues absent Commission guidance, it has taken many months of good faith efforts and reprogramming of carrier software and operating systems to

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<sup>8</sup> NJBPU Petition at 6.

resolve these boundary issues. Moreover, reaching a consensus agreement has been impossible to achieve with respect to intermodal porting, leaving wireless and wireline carriers with no alternative other than to wait for the May 24<sup>th</sup> implementation deadline to resolve these disputes by extending intermodal LNP to all rate centers.

Furthermore, it is also critical to note that wireless carriers would not be the only providers required to make changes. In order to achieve customer expectations of *both* wireless to wireless *and* wireline to wireless porting, all telecommunications companies in the four affected counties would have to make changes to ensure that wireline numbers could be ported to wireless numbers in all affected areas. Additionally, vendor changes would be required if portability prematurely extends to areas beyond the Top 100 MSAs. All national wireless carriers utilize the services of vendor clearinghouses in order to support automated porting. These clearinghouses have programmed software and systems to accommodate porting eligibility in the Top 100 MSAs, and have now committed substantial staff resources to the national coordinated launch of wireless LNP in rural markets on May 24, 2004. At this point, it would not be prudent or helpful to redirect staff resources away from those efforts.

The NJBPU Petition, however, contains no discussion of the efforts required to ensure that all carriers are ready for immediate LNP implementation.

Just last month, the Commission granted the “2% carriers” serving the top 100 MSAs a limited waiver (until May 24, 2004)<sup>9</sup> predicated on this very basis:

... we recognize that the Covered Carriers’ networks have technological limitations that cannot be resolved immediately to comply with the wireline-to-wireless porting requirement. The Joint Petitioners and most of the Petitioners assert that, unlike the large carriers serving within the Top 100 MSAs, a number of Two Percent Carriers in those markets had not received requests from other wireline carriers for wireline-to-wireline porting prior to May 24, 2003. As a result, in order to offer intermodal portability to their subscribers, these smaller carriers must acquire the hardware and software necessary to provide porting, make the necessary network upgrades, and ensure that their upgraded networks work reliably and accurately. Some of the Petitioners also assert that Two Percent Carriers often lack the experience and technical experience with number porting to quickly implement the necessary upgrades to their systems to ensure accurate porting. Accordingly, we conclude that special circumstances exist to grant Two Percent Carriers who have not previously upgraded their systems to support LNP a limited amount of additional time to overcome the technological obstacles they face to successfully meet a request for wireline-to-wireless porting. ...

We likewise find that the additional time is in the public interest for Covered Carriers to become capable of providing wireline-to-wireless porting. While we continue to deem rapid implementation of number portability to be in the public interest, we also believe it to be just as important that carriers implement and test the necessary system modifications to ensure reliability, accuracy, and efficiency in the porting process. As we found with the waiver granted to wireline carriers outside the top 100 MSAs, a transition period for Covered Carriers will help ensure a smooth transition and provide Covered Carriers sufficient time to make necessary modifications to their systems.<sup>10</sup>

Just like the wireline carriers that were the subject of the Commission’s 2% Carrier Waiver Order, wireless carriers need sufficient notice to implement – and test – the upgrades to their systems that are needed to ensure accurate porting. The entire industry, including both wireless and wireline carriers, have been on notice that May 24, 2004 is

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<sup>9</sup> See *Telephone Number Portability, Order*, CC Docket No. 95-116, FCC 04-12 (rel. Jan. 16, 2004) (hereinafter “Two Percent Carrier Waiver Order”).

<sup>10</sup> Two Percent Carrier Waiver Order, at ¶¶ 8-9.

the deadline for implementation of wireless and intermodal LNP. There has not been sufficient notice to advance this deadline, nor is there sufficient time remaining between now and May 24 to advance this deadline.

### **CONCLUSION**

For the aforementioned reasons, CTIA urges the Commission to reject the New Jersey Board of Public Utilities Petition for Delegated Authority to Implement Wireless Number Portability.

Respectfully submitted,

**CELLULAR TELECOMMUNICATIONS &  
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